

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 1:17-cv-530 (LMB/IDD)
v.)
GEORGE FORBES,)
Defendant.)

)

**UNITED STATES' MEMORANDUM IN SUPPORT OF ITS MOTION FOR
DEFAULT JUDGMENT AGAINST GEORGE FORBES**

Plaintiff United States of America, under Federal Rule of Procedure 55(b), moves this Court for judgment by default against the defendant George Forbes, because he has failed to timely answer or otherwise respond to the United States' complaint. In support of this request, the United States avers as follows:

1. The complaint in this action was filed on May 5, 2017. (Dkt. #1.) The complaint sought to collect the penalties assessed against the defendant, George Forbes, under 31 U.S.C. § 5321(a)(5) for his willful failure to report his interests in foreign bank accounts for the calendar years 2008, 2009, and 2010.
2. On May 23, 2017, a summons and a copy of the complaint was served on Forbes at his residence. (Dkt. #6.)
3. The time for Forbes to file an answer or otherwise respond to the complaint expired twenty-one days later, on June 14, 2017.
4. To date, Forbes has failed to plead or otherwise defend as required by Federal Rules of Civil Procedure 12(a)(1)(A) and 12(b).

5. On June 28, 2017, the Clerk entered default against Forbes. (Dkt. #9.)

STATEMENT AND DISCUSSION

6. Rule 55 of the Federal Rules of Civil Procedure authorizes a court to enter a default judgment against a defendant who has failed to plead or otherwise defend upon motion of the plaintiff. Fed. R. Civ. P. 55(b). However, the court may not accept the plaintiff's allegations at face value. Instead, “[t]he court must determine whether the well-pleaded allegations in Appellants' complaint support the relief sought in this action.”

Ryan v. Homecomings Financial Network, 253 Fed 3rd 778, 780 (4th Cir. 2001).

7. A delegate of the Secretary of the Treasury of the United States assessed civil penalties under 31 U.S.C. § 5321 against the defendant for his willful failure to report his interests in foreign bank accounts for the calendar years 2008, 2009, and 2010, as set forth below.

Tax Year	Penalty
2008	\$361,467.00
2009	\$100,591.60
2010	\$992,652.00

The penalties were assessed on May 6, 2015. Interest has since accrued on that amount by statute.

8. The defendant's failure to disclose his interest in foreign bank accounts was willful:
 - a. During the years between 2008 and 2010, the Defendant maintained foreign bank accounts at the Commercial Bank of Qatar, UBS, Bank Julius Baer, Barclays Wealth (Monaco), and Ashton Funds Management. The Defendant did not disclose the existence of these accounts on his federal income tax filings.

- b. The defendant did not file a Schedule B, on which he would have disclosed his interest in the foreign bank accounts, for tax years 2008 and 2010. The defendant did file a Schedule B in tax year 2009, but indicated on the form that he had no foreign bank accounts.
- c. The defendant was aware of the requirement to file Form TDF 90-22.1, Report of Foreign Bank and Financial Accounts. The defendant filed Form TDF 90-22.1 for tax years 2004 through 2007, inclusive, and again for tax year 2011, but failed to file Forms TDF 90-22.1 for tax years 2008 through 2009.
- d. Separate from the FBAR penalties assessed against the defendant, the Internal Revenue Service also assessed civil fraud penalties against each of the years for failure to disclose income from these foreign bank accounts that he failed to disclose to IRS.

9. As of May 3, 2017, Mr. Forbes owed \$1,657,812.23 for penalties assessed for his willful failure to disclose his interests in foreign bank accounts, plus interest that has accrued and will continue to accrue by statute until paid. By virtue of his failure to respond to the Complaint or otherwise plead in this case, George Forbes has admitted to these facts, as alleged in the United States' Complaint. Fed R. Civ. P. 8(b)(6); Complaint at ¶ 27. Accordingly, a default judgment may now be entered pursuant to Fed. R. Civ. P. 55(b) against George Forbes in the amount of \$1,657,812.23 as of May 3, 2017, together with interest that will continue to accrue according to law.

CONCLUSION

For the foregoing reasons, the United States' motion for default judgment should be granted.

Dated: July 21, 2017

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CERTIFICATE OF SERVICE

I certify that on July 21, 2017, the foregoing *Memorandum of Law Supporting Motion for Default Judgment* and supporting exhibits were filed with the Court using the CM/ECF system and served via first-class mail on:

George Forbes
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Vienna, VA 22181

/s/ Kieran O. Carter
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